

REMARKS

In the Office Action mailed November 22, 2006, the Examiner rejected claims 1-12 under 35 U.S.C. § 102(b) as being anticipated by European Patent Application No. 418398, and rejected claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over Japanese Publication No. 2001287254 of Moriwaki ("Moriwaki") in view of European Patent Application No. 418398. The Examiner used the term "Kamiguich et al." to refer to European Patent Application No. 418398. Applicants, however, believe that European Patent Application No. 418398 should be referred to as Neko et al. ("Neko").

By this Reply, Applicants have added dependent claims 12 and 13. No new matter has been added. Based on the following remarks, Applicants respectfully traverse the rejections under 35 U.S.C. §§ 102 and 103.

A. Rejection of Claims 1-12 Under 35 U.S.C. § 102

Applicants respectfully submit that Neko fails to disclose every claim element. Independent claim 1 recites, among other things, "a marking applier, applying a marking to an excess portion of the measured value waveform determined by the determinant." The Examiner alleged that Neko discloses "a marking applier applies a marking (value ER) to an excess portion of the measured value waveform determined by the determinant." See Office Action, page 2 (citing Neko, col. 11, lines 11-39). Applicants respectfully disagree.

Neko discloses an apparatus that counts the number of times (value ER) that the difference between the reference resin pressure and the actual resin pressure exceeds the allowable value. See Neko, col. 11, lines 11-27. Thus, in one sampling period, if

the difference between the reference resin pressure and the actual resin pressure exceeds the allowable value, the apparatus “updates the value ER in the defective sample counter to the value ‘ER+1,’ and then determines whether or not the updated counter value ER is not less than the allowable frequency N.” Id. If the value ER exceeds the allowable frequency N before the final sampling period, the apparatus delivers a defective article signal. See col. 11, lines 40-48. If the value ER does not exceed the allowable frequency N at the final sampling period, the apparatus delivers a conforming article signal. Id.

Therefore, the value ER is not a marking that is applied to an excess portion of the measured value waveform determined by the determinant, as alleged by the Examiner. The value ER merely represents the frequency that a defective pressure is detected, and does not vary with the value or size of the excess portion of the actual resin pressure. Neko, therefore, fails to disclose “a marker applier, applying a marking to an excess portion of the measured value waveform determined by the determinant.” Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102 rejection of claim 1 based on Neko.

In addition, independent claim 7 recites features similar to the features recited in independent claim 1, and thus Neko does not support the § 102 rejection of claim 7 for at least reasons similar to the reasons set forth with respect to independent claim 1. Furthermore, because claims 2-6 and 8-12 depend from claims 1 and 7, they are allowable at least by virtue of their dependence from an allowable base claim. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102 rejection of claims 2-12 based on Neko.

B. Rejection of Claims 1-12 Under 35 U.S.C. § 103

The Examiner rejected claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over Moriwaki in view of Neko. Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claims 1-12 for at least the reason that Moriwaki and Neko, taken alone or in combination, fail to teach or suggest every claim element.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be met. First, all the claim limitations must be taught or suggested by the prior art. See M.P.E.P. § 2143.03 (8th ed., rev. 5, August 2006). Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Third, a reasonable expectation of success must exist. Each of these requirements must “be found in the prior art, not in Applicant’s disclosure.” Id. Moreover, the references “must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention.” Id.

Independent claim 1 recites, among other things, “a marking applier, applying a marking to an excess portion of the measured value waveform determined by the determinant.” The Examiner alleged that Moriwaki discloses that “a marking (outlying observation) is applied to an excess portion of the measured value waveform and displayed on the display including variances.” See Office Action, page 4 (citing Moriwaki, paragraphs 0008-0013). Applicants respectfully disagree.

Outlying observation is not a marking that is applied to an excess portion of the measured value waveform determined by the determinant, as alleged by the Examiner. Outlying observation merely indicates that an abnormality is detected. When outlying observation is detected, the apparatus disclosed in Moriwaki can display the outlying observation on a display, print out the outlying observation using a printer, store the outlying observation in a recordable recording device, perform statistics processing (e.g., computing a variance, the average, the maximum, the minimum, an integral value, the rise time, a fall time, and a rate of change), output the processing result data, display the processing result data on a display, and print the processing result data using a printer. See Moriwaki, paragraphs 0009-0013. Nowhere does Moriwaki disclose a marking applier or a marking that is applied to an excess portion of the measured value waveform determined by the determinant.

Moreover, as shown in Figure 4, Moriwaki discloses displaying the upper limit waveform and the lower limit waveform with the measured value waveform all the time regardless whether the measured value is within or out of the allowable range. There cannot be a marking applied to the excess portion when all three waveforms are always displayed regardless whether the measured value is within or out of the allowable range. The figure, therefore, further supports the position that Moriwaki fails to disclose a marking applier or a marking that is applied to an excess portion of the measured value waveform determined by the determinant.

As explained above in response to the Examiner's § 102 rejection of claim 1, Neko fails to disclose "a marking applier, applying a marking to an excess portion of the measured value waveform determined by the determinant," and therefore, fails to cure

the deficiency of Moriwaki. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claim 1 based on Moriwaki and Neko.

In addition, independent claim 7 recites features similar to the features recited in independent claim 1, and thus Moriwaki and Neko, taken alone or in combination, do not support the § 103 rejection of claim 7 for at least reasons similar to the reasons set forth with respect to independent claim 1. Furthermore, because claims 2-6 and 8-12 depend from claims 1 and 7, they are allowable at least by virtue of their dependence from an allowable base claim. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claims 2-12 based on Moriwaki and Neko.

C. Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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